BRITISH COLUMBIA REVIEW BOARD

IN THE MATTER OF PART XX.1 (Mental Disorder) OF THE CRIMINAL CODE R.S.C. 1985 c. C-46, as amended S.C. 2005 c. 22

REASONS FOR DISPOSITION
IN THE MATTER OF

JORDAN CAMPBELL RAMSAY

HELD AT: **Forensic Psychiatric Hospital**
Port Coquitlam, BC
May 11, 2017

BEFORE:	**CHAIRPERSON:**	**B. Walter**
	MEMBERS:	**Dr. J. Smith, psychiatrist**
		P. Cayley

APPEARANCES:
ACCUSED/PATIENT: Jordan Campbell Ramsay
ACCUSED/PATIENT COUNSEL: D. Nielsen
DIRECTOR AFPS: Dr. M. Stingu-Baxter, B. Lohmann
DIRECTOR'S COUNSEL:
ATTORNEY GENERAL: J. Caldwell

INTRODUCTION AND BACKGROUND

[1] CHAIRPERSON: On May 11, 2017, the British Columbia Review Board convened an annual hearing to review the disposition of Jordan Campbell Ramsay. Mr. Ramsay is now 32 years of age and the current proceeding represents his sixth appearance before the Board.

[2] We are entitled to accept some, none or all of the evidence before us. While we have considered all of the evidence on record in this case, we only recite that which is necessary to our decision.

[3] Mr. Ramsay's index offence's occurred on November 5th, 2011. It consisted of the second degree murder of his father and the attempted murder of his mother. The details of these offences are set out in detail at Exhibit 11. Mr. Ramsay's family background including the onset and history of his mental illness, his family circumstances, events preceding the index offence and its apparent precipitants will not be repeated. That history remains on the evidentiary record and under full consideration in the course of our disposition making.

[4] Mr. Ramsay is diagnosed with schizophrenia, cluster A personality traits, as well as post traumatic stress disorder arising from the horrific index offence, which continues to plague and haunt him and for which he appears deeply remorseful. His treatment and symptoms have been complicated and destabilized by his anxious personality style which increases his risk to self and others.

[5] Mr. Ramsay's stability has also proven to be vulnerable to his acute sensitivity to stress. His symptoms, including hallucinations, delusions, and disorganized speech have continued: they have slowly responded and improved in hospital but persist in perhaps a less acute form. Mr. Ramsay also suffers from negative symptoms as well as depression.

[6] Despite the persistence of his symptoms, which at times render him disorganized and illogical, Mr. Ramsay has been very active in his participation in programs and activities within the hospital. For the most part, that participation has been appropriate and his behaviour has been termed exemplary.

[7] As of his last hearing on May 16, 2016, Mr. Ramsay's illness was considered to remain active and termed refractory. It has also over time effected his cognitive functioning.

EVIDENCE

[8] Dr. Stingu-Baxter provided written and oral evidence. At a global level, Mr. Ramsay's mental state has not changed appreciably in the last 12 months. He remains on the Elm South Unit where Dr. Stingu-Baxter says that he continues to experience auditory and visual hallucinations, and clings to a number of delusional beliefs. His interpretation of the world is influenced by his symptoms and beliefs. Especially when he is more deteriorated, he is a prolific writer, producing works which focus on his mental state, his understanding of his illness, and his life circumstances.

[9] In conversation, Mr. Ramsay readily becomes quite thought disorganized. Dr. Stingu-Baxter reiterates that the depth and persistence of his illness appears to have affected his cognition, functioning, and focus. Even long-term treatment with medication has not successfully or entirely resolved the symptoms of his refractory illness. He remains chronically psychotic. He also appears to lack insight into his illness, as evidenced by his journals and beliefs that mental health treatment and medication are harmful.

[10] Given the chronicity of Mr. Ramsay's illness and its lack of response to traditional treatment, his physician has proposed, and Mr. Ramsay and his family have now agreed to, a trial of electro convulsive therapy (ECT) in the hope that it may offer the promise of ameliorating his psychosis and improving his functioning. Dr. Stingu-Baxter described the administrative and clinical process for achieving approval to initiate ECT. Without going into unnecessary detail with respect to that issue, she indicates that treatment, which will be carried out in a hospital setting, could start from between three weeks to two months. A course of treatment would likely require up to six to seven months, although any response should be discernible within a few weeks.

[11] Mr. Ramsay seeks to be absolutely discharged to reside at Coast Cottages having, in his view, exhausted his opportunities for progress within the hospital. Dr. Stingu-Baxter very strongly advocates that if ECT is to be initiated, it should occur in an inpatient environment due to the need for close monitoring, supervision and response in the event of untoward side effects.

[12] As to his progress at FPH and although he is not yet considered appropriate for unescorted community access, Mr. Ramsay has frequent access to the community in the form of staff supported and group outings, as well as outings accompanied by family members. Mr. Ramsay and his mother, one of the victims of the index offences, have by

and large reconciled. She frequently accompanies him on outings, albeit always in the company of additional family member.

[13] In addition to his ongoing chronically psychotic presentation, Mr. Ramsay is also highly preoccupied, both in his writings and in his conversation, with the subject of death as both a concept and a state. This ideation coupled with his deep dysphoria about the index offence, his longing for forgiveness, his depression, and his generally nihilistic mental state render him an elevated risk of self harm.

[14] Given his beliefs about treatment and medication, Mr. Ramsay's oral prescriptions are administered to him in powdered or crushed form to alleviate any concerns about compliance. That said, Dr. Stingu-Baxter acknowledges that Mr. Ramsay is invariably, at least superficially, cooperative, pleasant, and polite. He has not engaged in any harmful or threatening behaviour at FPH.

[15] As will become obvious, Mr. Ramsay remains intensely preoccupied and focused on the index offence, which he believes was influenced by his family's frequent preceding relocations, amongst other theories. It is clear that the events have left him highly traumatized and suffering the effects of PTSD. His guilt at the loss of his father is a topic which arises at every interview.

[16] On the issue of significant threat, Dr. Stingu-Baxter considers the horrible index offences and says that any future risk, which she considers unpredictable and potentially serious to persons closest to Mr. Ramsay or others in his environment, flows from the continuing severity of his chronic psychotic symptoms. She is concerned that the content of some of Mr. Ramsay's writings are disturbingly similar to his thinking at the time of the index offence and she harbors the suspicion that Mr. Ramsay may in fact withhold some of his experiences.

[17] Mr. Ramsay was given the opportunity to extemporaneously share his thoughts with the Tribunal. He spoke at some length. His thought process is fraught and complex. It contains numerous themes touching on death, the end of the world, external influences on his conduct, as well as his theories regarding the precipitants of, and his thinking at the time of the index offence.

[18] Mr. Ramsay's thinking, in our view, disclosed intensely psychotic ideation. Rather than purporting to interpret his evidence, we prefer to provide the following verbatim excerpts out of respect for Mr. Ramsay's thoughts and beliefs:

MR. RAMSAY: And when Dr. Baxter talked about being preoccupied with death, I was never really preoccupied with it I was just curious about it. So that -- there's nothing to worry about there and when I actually pretended, you know, to shove at my mother in a twisted humour or sense that's a separate incident then how I find what contributed to my deterioration at the time of my hospitalization. Other thing the doctor mentioned was it's involuntary ECT but when I asked her before about being able to back out any time if it feels uncomfortable and she said yes. But as I -- as she was saying now or just this interview that -- that it would be involuntary. I was having a medical emergency and I didn't know it.

MS. NIELSEN: Do you mean at the time of the index offence?

MR. RAMSAY: Yes. Years ago. And I believe that enzyme deficiency is another leading contributor to my previous deterioration. I like to stay -- that being different is not always bad and I talk to my mother every day, almost every day.

MS. NIELSEN: Now?

MR. RAMSAY: Now, yeah. And I guess my humour was not shared when I would pretend to do things to my parents. But what happened on that night was totally separate from how I was pretending with -- well it's -- it's just -- when I -- when I observe other people being bad behaviour I'm sometimes influenced by the negativity and then I kind of be that way myself but I've learned not to be like that anymore 'cause I've matured significantly since I was 27. I just wanted my father and -- and now this and I was -- I have always obeyed my father. Even when he suggested things like, I don't know if it was a voice I was hearing, or if he was actually saying that I don't need to be on the pills anymore, and because I obeyed my father I think that might have caused a problem. But I believe in mind over matter. And the night of the unspeakable events, I feel that people were on a big race to eternal sanction or to heaven and I felt that I was something else than what I was and that we were on a race to eternal sanction or eternal sanctuary. Where these ideas were coming from I do not fully understand. So yeah.

MS. NIELSEN: I was going to say what do you mean you had some thoughts that it was of the end of the world?

MR. RAMSAY: Yeah. I thought that the end of the world was actually a secret plot to -- to -- to sacrifice somebody at that time whose -- whose life force is stronger within themselves. Because how powerful my human needs are I -- it was accentuated by the medication and in that case, I believe that they were trying to kill me or going to kill me because I thought the end of the world was -- secretly signify something that was going to happen to me because I felt more driven or self-powerful than other people when really that was a false belief. And –

[. . .]

MS. NIELSEN: Okay. Do you have feelings of paranoia?

MR. RAMSAY: Well, yeah. For example, I -- when we did the voting thing and they said there's a pencil there and they say write an "x" on your ballet right? So I was thinking why would they do it in pencil and then my paranoid thought was that what if somebody was going to reconfigure my vote and erase that 'x' and put something somewhere else, right? And

it's that type of paranoia delusion that -- that I suffer from the most at the time of the relatively false beliefs or feelings that I was experiencing.

MS. NIELSEN: Were you on any medications at the time of the index offences?

MR. RAMSAY: Well, I was on Truehope capsules and --

MS. NIELSEN: What are those?

MR. RAMSAY: It's a enzyme. I have an enzyme deficiency. And what happen was I bit in to it one time and it tasted something like ashes and I thought that people were cremating bodies and putting them into these capsules and that I would soon be packaged up and cremated and put into these Truehope capsules cause I thought I was, you know, like -- we agreed to stopped taking Risperdal around the same time.

[. . .]

MS. NIELSEN: Yeah, we have seen that. So the medications that you're on, do you think that they help you?

MR. RAMSAY: Mind over matter.

MS. NIELSEN: What does that mean?

MR. RAMSAY: I think that it's just something that -- well the human mind is very powerful so I think that if I let it help me it will.

MS. NIELSEN: You're willing to try ECT though?

MR. RAMSAY: Yeah well at first I said yes as long as I get to back out if it feels like its -- if its uncomfortable or if I don't know what's happening and they -- the doctor said yes. I feel that -- like I said before, acting or pretending to -- to pick up my father and throw him off the ferry was because of an experience I had when a child -- when some kids were playing around pretending to drown me in the pool or to throw me off a balcony and that's how I'm influenced by negativity. It's not originally my idea although, however, I pick up on that stupidity and sometimes I almost copy it.

[19] Although he seeks conditional discharge, Mr. Ramsay appears agreeable to a trial of ECT on the condition that if he finds the experience unpleasant, he is given the option to call a halt. He indicated that his physician had confirmed that he has that option.

[20] Mr. Ramsay confirmed that he enjoys staying busy and engaged in programs and activities at FPH, on the understanding that idle hands are the devil's workshop. He also referred to and considered the index offence as "the index defense." He would like an eventual discharge to CTC and in the meantime to undertake visit leaves on an incremental basis to that setting.

ANALYSIS AND DISPOSITION

[21] The Board's decision making is governed by s.672.54, and s.672.5401 of the *Criminal Code* (as amended) which provide:

> **672.54** When a court or Review Board makes a disposition under subsection 672.45(2), section 672.47, subsection 672.64(3) or section 672.83 or 672.84, it shall, taking into account the safety of the public, which is the paramount

consideration, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions that is necessary and appropriate in the circumstances:

(a) where a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused and, in the opinion of the court or Review Board, the accused is not a significant threat to the safety of the public, by order, direct that the accused be discharged absolutely;

(b) by order, direct that the accused be discharged subject to such conditions as the court or Review Board considers appropriate; or

(c) by order, direct that the accused be detained in custody in a hospital, subject to such conditions as the court or Review Board considers appropriate.

672.5401 For the purposes of section 672.54, a significant threat to the safety of the public means a risk of serious physical or psychological harm to members of the public — including any victim of or witness to the offence, or any person under the age of 18 years — resulting from conduct that is criminal in nature but not necessarily violent.

[22] The Board must first determine whether Mr. Ramsay poses a significant threat to public safety as defined in s.672.5401. Although it is considered an expert tribunal in respect of the subject matter within its jurisdiction, the Board is not required or entitled to conduct its own assessment of an accused's significant threat to public safety. As must any adjudicative body, the Board can only evaluate the evidence presented to us at a hearing to determine whether it meets that threshold.

[23] Despite the implementation of s.672.5401, in 2014, the Courts have held that this codification has not changed the interpretation of significant threat, in substance. The jurisdictional threshold test remains that articulated in **Winko v. British Columbia (Forensic Psychiatric Institute)**, [1999] 2 S.C.R. 625:

> [T]he threat posed must be more than speculative in nature; it must be supported by evidence: *D.H. v. British Columbia (Attorney General)*, [1994] B.C.J. No. 2011 (QL) (C.A.), at para 21. The threat must also be "significant"; both in the sense that there must be a real risk of physical or psychological harm occurring to individuals in the community and in the sense that this potential harm must be serious. A miniscule risk of grave harm will not suffice. Similarly, a high risk of trivial harm will not meet the threshold. Finally, the conduct or activity creating the harm must be criminal in nature. (Par. 57)

[24] In **Calles v. British Columbia (Adult Forensic Psychiatric Services)**, 2016 BCCA 318, the BC Court of Appeal confirmed that:

> A significant threat to public safety is defined in s. 672.5401 of the *Criminal Code* to mean "a risk of serious physical or psychological harm to members of the public – including any victim of or witness to the offence, or any person under the age of 18 years – resulting from conduct that is criminal in nature but not necessarily violent". The threat posed must be more than speculative and be supported by the evidence. It must be significant "both in the sense that there must be a real risk of physical or psychological harm occurring to individuals in the community and in the sense that this potential harm must be serious. A minuscule risk of grave harm will not suffice", nor will a high risk of trivial harm: Winko, at para. 57. (para. 15)

[25] Both the probability of the harm and the severity of the harm must be significant. Prior to **Winko** it was sometimes argued that a miniscule risk of grave harm was significant. An alternate argument was that a high risk of trivial harm occurring could be significant. Both arguments are expressly rejected in **Winko**: there must be a significant risk of serious harm occurring.

[26] On the issue of significant threat, Mr. Ramsay's offences, just over five years ago, were serious, unpredicted, and in one instance, lethal. Mr. Ramsay continues to be preoccupied with the events and their precipitants. He remains chronically psychotic with only limited understanding of his illness. He also espouses an antipathy towards treatment, believing that it is harmful to him. He has in the past been demonstrably resistant to taking medications. It appears that even the victims of the index offence have held alternate theories regarding his illness and preferred approaches to its treatment which have tended to either resist or minimize the benefits of medication. Just two days before the index offence, Mr. Ramsay's mother declined his medications and she continues to hold alternate theories for the tragic events which have affected this family. Mr. Ramsay remains dysphoric, depressed, nihilistically preoccupied, and his writings contain themes which are similar to those which existed or were active in his conduct at the index offences.

[27] Overall, Mr. Ramsay's illness, complicated by anxiety, vulnerability to stress, and lack of insight has been exquisitely resistant to treatment. Mr. Ramsay also becomes quickly disorganized and his conversation becomes replete with psychotic themes and theories. In our view, any other finding but that Mr. Ramsay remains a significant threat would be both premature and contradict the evidence.

[28] Having concluded that Mr. Ramsay remains a significant threat, we are required to reconsider and apply the criteria in s.672.54 to the evidence to arrive at the necessary and appropriate disposition in this case.

> The “necessary and appropriate” standard came into force on July 11, 2014. Before then, the Criminal Code required that the disposition be the “least onerous and least restrictive to the accused”. This court has endorsed the Board’s view that the two standards are synonymous – in other words, the “necessary and appropriate” disposition is also the “least onerous and least restrictive” disposition: Ranieri (Re), 2015 ONCA 444 (CanLII), 336 O.A.C. 88, at paras. 20-21. The change in language was meant to clarify the standard and make it easier to understand, not to modify it. Thus, the jurisprudence developed under the least onerous and least restrictive standard continues to apply to dispositions under the necessary and appropriate standard: **McAnuff** (Re), 2016 ONCA 280, par 22.

[29] Mr. Ramsay's ongoing detention remains both necessary and appropriate and represents the least onerous and least restrictive alternative we are able to offer. Viewed from the prospective of his own needs at this stage, Mr. Ramsay's and his family's interest in considering a course of alternative treatment using ECT should be given the opportunity to be implemented and evaluated. To do this falls entirely within the accused's interests and accords with the paramountcy of public safety.

[30] This last resort attempt to bring Mr. Ramsay's symptoms under better control represents, perhaps, the last and best hope that his desire to eventually live in a less restrictive environment, such as CTC, will ever become a reality. Certainly, to discharge him to function independently in the community when he has never lived on his own would be the height of irresponsibility.

[31] We find the necessary and appropriate disposition to be one of custody for a 12 month period with the addition of discretionary visit leave opportunities if indeed as is hoped, Mr. Ramsay's illness shows a positive response to the proposed treatment methodology.

Reasons written by B. Walter, in concurrence with Dr. J. Smith and P. Cayley

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